United Nations CERD/C/MDA/CO/10-11

International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
7 June 2017

Original: English

Committee on the Elimination of Racial Discrimination

Concluding observations on the combined tenth and eleventh periodic reports of the Republic of Moldova*

1. The Committee considered the combined tenth and eleventh periodic reports of the Republic of Moldova (CERD/C/MDA/10-11), submitted in one document, at its 2522nd and 2523rd meetings (CERD/C/SR.2522 and 2523), held on 26 and 27 April 2017. At its 2537th meeting, held on 9 May 2017, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined tenth and eleventh periodic reports of the State party, which included responses to the concerns raised by the Committee in its previous concluding observations. The Committee welcomes the open and constructive dialogue with the State party's delegation.

3. The Committee notes that the Transnistria region continues to be outside the effective control of the State party, which is therefore unable to monitor the implementation of the Convention in that part of its territory (see CERD/C/MDA/10-11, para. 288).

B. Positive aspects

4. The Committee welcomes the adoption of the following legislative and policy measures:

(a) The Equality Act (No. 121), adopted on 25 May 2012;

(b) Act No. 306 on amendments and additions to certain legislative measures, adopted on 20 December 2012, introducing amendments to the Criminal Code and supplementing the Code of Offences;

(c) The People's Advocate (Ombudsman) Act (No. 52), adopted on 3 April 2014;

(d) The Strategy on Strengthening Inter-ethnic Relations (2017-2027), adopted on 30 December 2016;

(e) The Plan of Action to Support the Ethnic Roma Population in the Republic of Moldova for 2011-2015, adopted on 8 July 2011; and new Plan of Action for 2016-2020, adopted in June 2016;

(f) The National Programme for Ensuring Gender Equality for 2010-2015.

* Adopted by the Committee at its ninety-second session (24 April to 12 May 2017).

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5. The Committee welcomes the State party's declaration of 8 May 2013, recognizing the competence of the Committee to receive and consider individual complaints in accordance with article 14 of the Convention.

C. Concerns and recommendations

Statistical data

6. The Committee welcomes the statistics from the 2014 census provided by the State party during the dialogue on the ethnic, linguistic and religious composition of the population, on the basis of self-identification. The Committee regrets the lack of comprehensive data on the enjoyment of economic and social rights by ethnic minority groups and the lack of data on the representation of ethnic minorities in public and political life (arts. 1 and 5).

7. **The Committee refers the State party to its revised guidelines for reporting under the Convention (see CERD/C/2007/1, paras. 10-12), and recommends that the State party gather and provide updated statistical data in its next periodic report on the enjoyment of economic and social rights by ethnic minority groups and provide the Committee with an empirical basis on which to measure the enjoyment of these rights as they apply under the Convention. The Committee also requests data on the representation of members of ethnic minority groups in public and political life.**

Ombudsman for human rights

8. The Committee welcomes the adoption in 2014 of the People's Advocate (Ombudsman) Act (No. 52), which replaces the Centre for Human Rights of the Republic of Moldova and strengthens the mandate and independence of the national human rights institution. The Committee notes that, as at 2009, the institution had been awarded B status by the Global Alliance of National Human Rights Institutions. The Committee expresses concern that the Ombudsman's office lacks the financial and human resources necessary to carry out its mandate effectively (art. 2).

9. **Recalling its general recommendation No. 17 (1993) on the establishment of national institutions to facilitate the implementation of the Convention, the Committee recommends that the State party take the measures necessary to ensure that the Ombudsman has sufficient human and financial resources to discharge its mandate effectively and independently, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), and the measures necessary to address the recommendations of the Global Alliance of National Human Rights Institutions Subcommittee on Accreditation in order to obtain A status.**

Legal framework

10. The Committee welcomes measures taken by the State party to strengthen its legal framework to combat racial discrimination, including the adoption in 2012 of the Equality Act (No. 121). However, it regrets the lack of detailed information on the implementation and impact of this legislation. The Committee also welcomes efforts by the State party to create a Strategy on Strengthening Inter-ethnic Relations (2017-2027), and efforts to include combating racial discrimination in the National Human Rights Action Plan (2017-2021), which is being finalized. The Committee is concerned at lack of comprehensive information on how these measures will be resourced and implemented and their impact to prevent racial discrimination.

11. **The Committee recommends that the State party provide in its next periodic report detailed information on:**

(a) **The implementation of the Equality Act and its impact on the situation of ethnic minorities;**

(b) Measures taken to develop and implement a plan of action to implement the Strategy on Strengthening Inter-ethnic Relations (2017-2027) and to ensure the adequate allocation of financial resources for its effective implementation;

(c) Information on the implementation, monitoring, evaluation and impact of the Strategy on the situation of ethnic minorities and the involvement of minorities in its ongoing implementation;

(d) Measures taken to finalize and adopt the National Human Rights Plan of Action (2017-2021), including detailed information on measures included in the plan to combat racial discrimination and strengthen inter-ethnic relations, the resources allocated to the plan and efforts for the implementation of the plan and evaluation of its impact on the situation of ethnic minorities.

Hate speech and hate crimes

12. The Committee notes that article 346 of the Criminal Code was amended in 2016 and renamed Intentional Actions Aimed at Inciting Ethnic, Racial or Religious Hatred, Differentiation or Discord. The Committee is concerned that this amendment is not fully in line with the prohibition on hate speech in article 4 of the Convention. It is also concerned about the lack of hate crime legislation in effect in the State party and welcomes information provided by the State party that Parliament is considering amending the Criminal Code to address this concern. The Committee is further concerned at the reported promulgation of racist stereotypes and hate speech in the media and political sphere against members of certain groups, such as ethnic minority Muslims, Roma, Jews and asylum seekers or refugees, and the lack of accountability for such acts (arts. 2, 4, and 6).

13. **The Committee, recalling its general recommendation No. 35 (2013) on combating racist hate speech, recommends that the State party:**

(a) Ensure that article 346 of the Criminal Code is fully in line with article 4 of the Convention and that the amended article is enforced to prosecute incidents of hate speech;

(b) Adopt comprehensive legislation criminalizing hate crimes and ensure that such legislation is in line with the Convention and that racial motivation is listed as an aggravating circumstance;

(c) Conduct educational campaigns to address the root causes of prejudices and promote tolerance and respect for diversity, including in particular with a focus on the role and responsibilities of journalists and public officials;

(d) Ensure all incidents of hate crimes and hate speech are investigated and prosecuted and that the perpetrators are punished, regardless of their official status, and provide data on numbers of hate crimes and hate speech cases reported, prosecutions and convictions, and compensation to victims;

(e) Reinforce the role of the prosecutors in supporting victims of racial discrimination to report violations.

Cases of racial discrimination

14. The Committee notes the creation in 2012 of the Council for the Prevention and Elimination of Discrimination and Equality, which, among other functions, is mandated to consider complaints of discrimination, and is concerned that the Council does not have the power to impose sanctions for acts of discrimination and lacks adequate financial resources to carry out its mandate. The Committee appreciates statistical data provided by the State party on cases of discrimination. The Committee is concerned that from 2013 to date very few complaints of racial discrimination were registered and prosecuted. The Committee reminds the State party that a low number of complaints does not necessarily signify the absence of racial discrimination in the State party, but rather may signify barriers in invoking the rights in the Convention domestically, including lack of public awareness of the rights under the Convention and available methods to seek judicial recourse (arts. 6-7).

15. **Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party take measures to ensure that cases of racial discrimination brought before the Council are investigated and that perpetrators are prosecuted and properly sanctioned, and that the Council is provided with adequate financial resources to fulfil its mandate effectively. The Committee requests the State party to provide updated detailed information in its next periodic report on the work of the Council, including its consideration of complaints of racial discrimination. The Committee requests updated disaggregated statistics and detailed information on the number and types of complaints on racial discrimination reported to the Council and the Courts, and on prosecutions and the convictions of perpetrators. The Committee recommends that the State party undertake public education campaigns on the rights provided in the Convention and domestic legislation under which these rights can be invoked, on the work of the Council and on the methods for filing complaints on racial discrimination.**

Freedom of religion of ethnic minorities

16. Given the intersectionality of religion and ethnicity, the Committee is concerned by the difficulties faced by members of certain minorities, such as persons belonging to ethnic minorities who are Muslims or Jews, to practise freely their right to freedom of religion, including reports of profiling and arbitrary identity checks by law enforcement officers of Muslims, obstacles faced by the Muslim communities to obtain permission to build a mosque, stereotyping, negative portrayal in the media, hate speech and harassment. Vandalism in Jewish cemeteries and robberies of synagogues have also been reported. The Committee is also concerned by reports that perpetrators of some of those reported incidents have not been apprehended and prosecuted (art. 5).

17. **The Committee recommends that the State party promptly take effective measures to protect the rights of minorities, including their right to freedom of thought, conscience and religion, without any discrimination on the grounds of race, colour, descent or national or ethnic origin, as specified in article 5 of the Convention. The Committee also recommends that the State party take the measures necessary to ensure that complaints by members of ethnic minorities are properly filed and investigated and that perpetrators are prosecuted, convicted and sentenced.**

Linguistic rights of ethnic minorities

18. The Committee notes information provided by the State party during the dialogue on the operation of schools in the State party where instruction is conducted in Russian, Ukrainian, Gagauz, Bulgarian, Polish and Hebrew. The Committee remains concerned that, despite those measures, persons belonging to minority ethnic groups such as Bulgarians, Gagauz, Russians and Ukrainians are reportedly unable to gain access to mother-tongue education. The Committee is further concerned that, in schools where mother-tongue education is offered to minority students, instruction on the State language is reportedly of insufficient quality, thereby affecting the ability of ethnic minority students to have access to higher education and employment opportunities that require knowledge of the official State language (art. 5).

19. **The Committee recommends that the State party take the measures necessary to ensure access by ethnic minority children to mother-tongue education in schools. It also recommends that the State party take the measures necessary to ensure that minority students studying in schools offering mother-tongue education are provided with quality instruction on the State language and all efforts are undertaken to prevent discrimination against such students in obtaining higher education and employment on the basis of language.**

Situation of Roma

20. The Committee welcomes the adoption of the Plan of Action to Support the Ethnic Roma Population in the Republic of Moldova for 2016-2020, and information provided by the State party during the dialogue on its efforts to assist Roma. The Committee remains

concerned that the Roma community continues to face challenges such as discrimination and prejudice and difficulty in gaining access to health care, housing, education, employment, and representation in policymaking. The Committee notes efforts by the State party to implement the Plan of Action. However, it expresses concern that the decentralization reform that shifted responsibility to local governments for its implementation, as well as financial restrictions, will affect both the implementation and the impact of the activities envisaged. The Committee notes efforts to hire Roma mediators to facilitate dialogue with State authorities and access to public services. However, it is concerned by reports that at the end of 2016 only 12 out of a possible 45 Roma mediators had been hired, possibly owing to a lack of financial resources and an understanding of the role of Roma mediators by local authorities (art. 5).

21. **The Committee recommends that the State party:**

(a) **Take the measures necessary to ensure the Plan of Action for Supporting the Ethnic Roma Population in the Republic of Moldova for 2016-2020 is properly financed, implemented and monitored;**

(b) **Continue to take measures to end discrimination against Roma and improve access by Roma to health care, housing, education, and employment;**

(c) **Ensure the involvement and consultation of Roma on issues concerning them;**

(d) **Ensure the representation of Roma in policymaking;**

(e) **Work with the local government to ensure that all Roma mediator positions are financed and vacancies filled, emphasizing the importance of the role of Roma mediators in resolving problems faced by Roma and their integration into society.**

Situation of non-citizens

22. The Committee appreciates the statistics provided by the State party during the dialogue on the numbers of refugees and asylum seekers in the State party. However, it regrets the lack of comprehensive detailed information on the implementation and impact of the National Strategy for Migration and Refugees 2011-2020, and the Action Plan 2016-2020 on the ability of non-citizens such as migrants, refugees and asylum seekers to have access without discrimination to education, employment, housing, health care and basic services (arts. 5 and 7).

23. **Recalling its general recommendations No. 30 (2004) on discrimination against non-citizens and No. 22 (1996) on article 5 of the Convention on refugees and displaced persons, the Committee recommends that the State party ensure that non-citizens are given access to education, housing, health care and employment, without discrimination. The Committee recommends that the State party provide information on the implementation and impact of the National Strategy for Migration and Refugees 2011-2020, and the Action Plan 2016-2020 on the ability of non-citizens such as migrants, refugees and asylum seekers to have access without discrimination to employment, housing, health care and basic services.**

Training on racial discrimination for judges, lawyers and State officials

24. The Committee notes the information provided by the State party during the dialogue that 16 types of training for judges, prosecutors and police officers had been carried out in the State party. However, it regrets the lack of detailed, updated information and statistics on recent training conducted among law enforcement officers, judges, lawyers and State officials specifically on the prevention of racial discrimination and on the rights enshrined in the Convention, and the impact of such training on the situation of ethnic minorities (art. 7).

25. **The Committee recommends that the State party continue to conduct training programmes for law enforcement officers, judges, lawyers and State officials, including specialized training on the prevention of racial discrimination and the rights**

enshrined in the Convention. It requests that the State party provide updated, detailed information and statistics in its next periodic report on such training programmes and the impact of such training on the situation of ethnic minorities.

D. Other recommendations

Ratification of other instruments

26. **Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights instruments that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.**

Follow-up to the Durban Declaration and Programme of Action

27. **In the light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.**

International Decade for People of African Descent

28. **In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015-2024 the International Decade for People of African Descent, and resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests that the State party include in its next periodic report specific information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.**

Consultations with civil society

29. **The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.**

Amendment to article 8 of the Convention

30. **The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.**

Follow-up to the present concluding observations

31. **In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 19 and 23 above.**

Paragraphs of particular importance

32. **The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 11, 13 and 15 above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.**

Dissemination of information

33. **The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly publicized in the official and other commonly used languages, as appropriate.**

Preparation of the next report

34. **The Committee recommends that the State party submit its combined twelfth to fourteenth periodic reports, as a single document, by 25 February 2020, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.**